

BROOKE UTILITIES, IN



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ORIGINAL

RECEIVED

Mailing Address: P.O. Box 82218, Bakersfield, CA 93380
Customer Service Call Center (800) 270-6084

2012 JAN 30 P 2:08

ROBERT T. HARDCASTLE
(781) 823-3070 Fax
RTH@brookeutilities.com

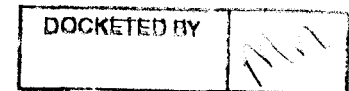
January 27, 2012

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

JAN 30 2012

Arizona Corporation Commission
Docket Control
1200 West Washington St.
Phoenix, AZ 85007-2927



In re: **Docket No. W-03514A-12-0008; Answer to Formal Complaint from
Gehring and Jones; Motion to Dismiss.**

Payson Water Co., Inc. ("Company") Answers Complainant's Gehring and Jones as provided below:

- (1) No proper cause of action has been stated by the Complainants.
- (2) Company denies all baseless, unfounded, malicious, wasteful, defamatory, and erroneous allegations of the Complainant's contained in the Complaint that are also filed against an entity not regulated by the Corporation Commission.
- (3) Company submits it's previous timely Answer to Complaint No. 2011-98439 attached hereto as Exhibit 1.
- (4) Company submits newspaper article dated November 25, 2011, attached hereto as Exhibit 2, whereby numerous responses and quotations are provided by representatives of the Corporation Commission indicating dismissal of 19 other similarly filed complaints making the same allegations as contained in Complaint's Formal Complaint.
- (5) Company's further processing of this matter will be time consuming, expensive, non-productive, argumentative, and wasteful of its resources at the expense of the Company and its ratepayers. In light of the Corporation Commission's previous dismissal of similar complaints in the same water system that did not warrant further consideration the Company's further representation will needlessly cost rate payers of the Mesa del Caballo water system higher rates for no purpose whatsoever.

Accordingly, Payson Water Co. requests the Corporation Commission grant this Motion to Dismiss.

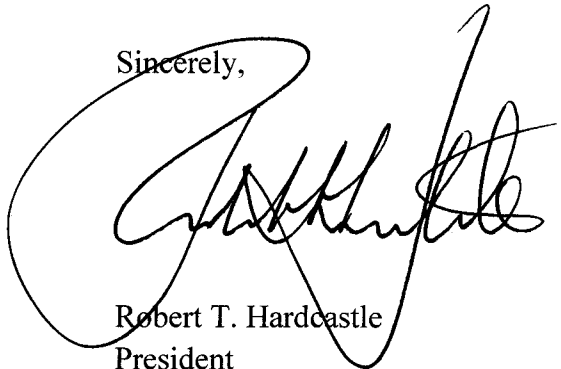
Payson Water Co., Inc.

Docket No. W-03514A-12-0008

Formal Complaint 2011-98439 and 2011-98782

Page 2

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'R. Hardcastle', is written over the word 'Sincerely,' and extends down over the name 'Robert T. Hardcastle'.

Robert T. Hardcastle
President

EC: PB, Esq.
Gehring Complaint File

The original and 13 copies of the foregoing Answer has been made the 20th day of January, 2012 to the following:

Docket Control
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Patrick Black, Esq.
Fennemore Craig
3003 No. Central Ave., Suite 2600
Phoenix, AZ 85012-2913

Lynn Farmer
Chief Hearing Officer
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

Janice Alward, Legal Division
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

J. Stephen Gehring
8157 W. Deadeye Rd.
Payson, AZ 85541

Bobby and Lois Jones
7325 No. Caballero
Payson, AZ 85541

Bob Hardcastle

From: Bradley Morton <BMorton@azcc.gov>
Sent: Wednesday, September 21, 2011 9:11 AM
To: Bob Hardcastle
Cc: Connie Walczak
Subject: RE: ACC Complaints: Gehring, J. Stephen - Complaint No. 98439

Bob,

In response to this response, I had left you a voicemail on 9/1/11 to see if after I faxed you the attachments on this complaint if your response was any different than this original response. I had not heard back from you so please advise.

Thanks
Brad

From: Bob Hardcastle [<mailto:rth@brookeutilities.com>]
Sent: Monday, August 29, 2011 1:48 PM
To: Bradley Morton
Cc: Connie Walczak; 'Patrick Black'; David Allred
Subject: RE: ACC Complaints: Gehring, J. Stephen - Complaint No. 98439

Payson Water Co. RESPONSE TO ACC COMPLAINT NO. 2011-98439

Date: August 29, 2011
Complaint No: 2011-98439
Complaint Date: August 29, 2011
Complainant: Gehring, Stephen
ACC CSR: BM
Water Company: Payson Water Co.
Water System: MdC
Account No: Unknown
Property Location: Unknown
Brooke Call Center: (800) 270-6084

Response:

The Company has investigated this complaint thoroughly including the customer records, operational personnel discussion, and examined internal operational policies and procedures related to this Complaint. The Company responds as indicated below:

Complainant alleges the Company committed fraud in charging its customers water augmentation costs. The Company vehemently denies the absurd allegations of the Complaint. Complainant has a long history of making irrational and libelous complaints that date back to before Payson Water Co.'s ownership of the MdC water system and not complying with orders and agreements of the

Commission. By means of the Complaint, Complainant has defamed and libeled the Company and its officers. Water augmentation charges are a cost reimbursement mechanism only, and are reviewed by the Arizona Corporation Commission. This Complaint has no merit and should be dismissed. The Company will allow the Complainant until 5:00 p.m. on September 2, 2011 to apologize to the Company and dismiss the subject Complaint or, otherwise, the Company will direct its legal resources to seek all legal remedies available to it against the Complainant and the parties connected with publishing the newspaper story of August 26, 2011. In the event Complainant chooses not to withdraw his complaint and the matter is not dismissed as requested herein, the Company shall not participate in any further proceedings. The Commission is not the proper forum for Mr. Gehring's baseless complaints, which represents an abuse of the administrative process that drains time and resources not only of the company, but of the Commission as well.

Based on the facts, procedures followed by the Company, and the circumstances of the subject Complaint, Company considers its administrative and operational conduct in this matter as appropriate and in accordance with the requirements of Title 14 and other applicable regulations.

Far too many complaints are filed by non-customers wasting time for both ACC staff and the Company. We request that every customer lodging a complaint provide (1) a customer account number for our timely research and reply, and (2) provide a current mailing address and telephone number to ensure that water bills are being delivered to the proper location.

By means of this response the subject customer account notes are being appended accordingly.

Respondent: Robert T. Hardcastle
RTH@brookeutilities.com

RTH

From: Bradley Morton [<mailto:BMorton@azcc.gov>]
Sent: Monday, August 29, 2011 12:47 PM
To: Bob Hardcastle
Subject: ACC Complaints: Gehring, J. Stephen - Complaint No. 98439

Please see the attached complaint. It is in PDF format.

EXHIBIT 2

Payson Roundup

Complaints against Brooke dismissed

Corp. commission says company did nothing wrong in imposing water hauling charges at Mesa del Caballo

By Pete Aleshire

November 25, 2011

The Arizona Corporation Commission has dismissed 19 complaints and absolved Brooke Utilities of any wrongdoing in the water hauling charges it imposed this summer in Mesa del Caballo.

Commission spokeswoman Rebecca Wilder said, "they were found to have charged the surcharge correctly. Some of the issue was a misunderstanding. All the complaints we received were resolved."

For the past several summers, the 400 homeowners in Mesa del Caballo have repeatedly used water faster than the aging wells can pump new water into the scattered water storage tanks serving the subdivision.

After swallowing the extra costs involved in hauling water in from outside to fill those tanks, this year Brooke Utilities got permission from the corporation commission to put a surcharge on this summer's bills to cover the extra costs in months when it has to haul water.

The corporation commission had also approved a system that allowed the company to impose increasingly severe water use restrictions, including a ban on landscape watering, washing cars and other uses. The rules included a "curtailment charge," which allowed the company to impose fines on customers using more than 4,000 gallons a month who didn't reduce their usage.

At the time, the company dismissed the complaints as "absurd" and mostly blamed a vendetta against the company by Steve Gehring, who owns a market in the unincorporated subdivision off Houston Mesa Road.

Gehring filed one of 19 complaints related to the water hauling charges. Gehring's complaint claimed the company manufactured a crisis so it could impose the water hauling charges and then inflated its purchases and imposed the water hauling charge on every gallon sold during the month, instead of just the extra water bought from Payson and hauled to the storage tanks by truck.

However, Wilder said a review by Corporation commission staff concluded the company did nothing wrong. She said she believed that the "tariff" allowing the extra water hauling charges does apply to all the water sold in the month, since the extra water keeps the whole system functioning.

"When there's a water hauling period, then all the water is hauled. It's all being hauled. So the charge applies to all the water sold."

Moreover, some of the complaints confused the water hauling charges that applied to everybody and the curtailment charges that applied only to people using more than 4,000 gallons a month.

"There was some of the language in the tariff that was confusing and that language was removed," she said.

She didn't know how much staff time the complaints consumed. The commission has about 10 people working in the department that investigates consumer complaints about the hundreds of companies the corporation commission operates, including some of the biggest utilities in the state.

The company hopes to eventually end water hauling charges by connecting the subdivision to Payson's Blue Ridge pipeline, since the treatment plant will sit right next to Mesa del Caballo.

Company officials estimate it would cost Mesa del Caballo homeowners about \$1 million to buy into the Blue Ridge pipeline. Covering that cost would increase the average monthly bill by about 130 percent. Currently, bills average \$23 a month.

Gehring and others have launched a local effort to form a water improvement district, in hopes that district could first secure the rights to the Blue Ridge water and then perhaps buy out the private company, following in the footsteps of both the Pine-Strawberry Water Improvement District and the Town of Star Valley, which recently bought out Brooke-owned companies.

Originally published at: <http://www.paysonroundup.com/news/2011/nov/25/complaints-against-brooke-dismissed/>